



NATIONAL
EMPLOYMENT
LAW
PROJECT

TESTIMONY
OF
TSEDEYE GEBRESELASSIE
NATIONAL EMPLOYMENT LAW PROJECT

BEFORE THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE
ON SB 858 – ELIMINATION OF SUB-MINIMUM WAGE FOR TIPPED WORKERS

MARCH 5, 2015

HARTFORD, CONNECTICUT

National Office
National Employment Law Project
75 Maiden Lane, Suite 601
New York, NY 10038
212.285.3025

Good afternoon Senator Gomes, Representative Tercyak, and members of the Labor and Public Employees Committee. My name is Tsedeye Gebreselassie, and I am a senior staff attorney with the National Employment Law Project. Thank you for the opportunity to present testimony before you today.

The National Employment Law Project is a non-profit, non-partisan research organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state, and local lawmakers on a wide range of workforce issues.

Across the country, our staff are recognized as policy experts in areas such as unemployment insurance, wage and hour enforcement, and, as is relevant for today's hearing, the low-wage labor market and labor policy. We have worked with dozens of state legislatures across the country and with the U.S. Congress on measures to create more living wage jobs and improve working conditions for low-paid workers.

I am pleased to offer the following testimony in support of SB 858, which would eliminate the subminimum wage for Connecticut's tipped workers, so that every tipped worker will earn the full minimum wage as their base cash wage. I would urge the committee to strengthen the bill, however, by eliminating the nominal 35 cent tip credit, clarifying that gratuities are the sole property of the employee, and prohibiting employers from taking any portion of a workers' tips to pay for credit card company fees.

Tipped Workers in Connecticut Receive Low Wages and Tipped Workers Are More than Twice as Likely to Live in Poverty than the Workforce as a Whole

- Tipped workers make up a significant portion of our low-wage workforce. They work as parking attendants, car wash workers, nail salon workers, baggage porters and bellhops. The largest numbers are employed in food service, such as waitresses, waiters, bussers, and food delivery workers. In Connecticut, these workers are only guaranteed a base cash wage of \$5.78 an hour paid directly by the employer, with tips expected to make up the difference.
- While some tipped workers may earn enough in tips to bring their hourly earnings well above the minimum wage, the vast majority of tipped workers earn low wages just above the minimum wage. For example, in Connecticut, the median hourly wage for restaurant servers is just \$9.16 per hour.¹
- Across the country, tipped workers are more than twice as likely to fall under the federal poverty line, and nearly three times as likely to rely on food stamps, as the average worker.²

Tipped Workers Are Mainly Adults and Disproportionately Women.

- The vast majority of tipped workers are adults: 88% of all tipped workers – and 82% of waiters and waitresses, are over the age of 20.³

- Tipped workers are disproportionately female: 72% of all tipped workers, and 72.4% of waiters and waitresses, are women.⁴

Raising the Base Wage for Tipped Workers Boosts Income and Reduces Poverty

- Eight states (Alaska, California, Hawaii, Minnesota, Montana, Nevada, Oregon and Washington) have set the base wage for tipped workers equal to 100 percent of the full minimum wage, ensuring that tipped workers are paid the full minimum wage directly by their employers for each hour of work,⁵ with any tips received being in addition to, not instead of, the minimum wage. These includes states like Washington and Oregon, that not only have minimum wages higher than Connecticut's – at \$9.47 and \$9.25 respectively – but also index their minimum wages to increase each year with inflation. In other words, a waitress in Washington currently receives a base cash wage of at least \$9.47 per hour before tips, and can expect an increase next year.
- This model policy has proven effective in reducing poverty among tipped workers: in these seven states, tipped workers are 25 percent less likely to fall under the federal poverty line compared to states with lower tipped minimum wages.⁶
- A 2013 study from the University of California-Berkeley examines each instance of an increase in the tipped minimum wage on the state level since 1990, and finds that each 10 percent increase boosts earnings for tipped workers by 0.45 percent.⁷

Restaurants Can Afford to Pay a Higher Tipped Minimum Wage

- A 2013 analysis from the University of California-Berkeley examines every increase in the tipped minimum wage on the state level since 1990 and concludes that “the evidence...does not indicate that there are significant negative effects of tipped wages or regular minimum wages at the levels experienced in the U.S. since 1990 in full-service establishments.”⁸
- Indeed, official estimates from the restaurant industry itself support this finding that there are no statistically significant negative employment effects of raising the tipped minimum wage in the full-service restaurant industry:
 - While restaurant employers will often claim that raising the tipped minimum wage will place one state at a disadvantage with respect to neighboring states with lower tipped wages, the restaurant industry's official projections of employment growth in bordering states show that differing tipped wage rates do not actually affect expectations of employment growth.
 - For example, the tipped minimum wage in Oregon is \$9.25 per hour, and the restaurant industry projects that restaurant employment will grow by 12 percent in Oregon by 2023 – by comparison, neighboring Idaho has a tipped

minimum wage of only \$3.35 per hour, yet its restaurant employment growth is not expected to be any higher than Oregon (indeed, it is expected to be slightly lower).

- In another example, the state of Nevada has a tipped minimum wage of \$8.25 per hour, while the projected industry employment growth is 14.8 percent by 2023 – by comparison, the neighboring state of Utah has a tipped minimum wage of only \$2.13 per hour, while restaurant industry employment growth is projected to be still lower than Nevada, despite its lower tipped minimum wage.
- Thus, states that have maintained low tipped minimum wages are not expected to enjoy faster rates of restaurant industry employment growth, even according to the restaurant industry’s own estimates. This underscores that state-level employment trends in the restaurant industry are affected by a range of factors including broader economic growth trends and population growth rather than narrowly a factor of wages.

High Tipped MW			Low Tipped MW		
	TPW Rate	Projected Industry Job Growth (2013-2023)		TPW Rate	Projected Industry Job Growth (2013-2023)
OR	\$9.10	12.0%	ID	\$3.35	10.7%
NV	\$8.25	14.8%	UT	\$2.13	13.9%
CA	\$8.00	9.5%	AZ	\$4.90	15.9%
MN	\$6.15	6.7%	WI	\$2.33	6.1%
WV	\$5.80	5.1%	PA	\$2.83	5.0%
NY	\$5.00	6.7%	NJ	\$2.13	6.2%
IL	\$4.95	6.9%	IN	\$2.13	7.7%

Sources: State tipped minimum wage data, US DOL; Job growth projections, Nat'l. Restaurant Association 2013 Industry Report

Tipped Workers Need Strong Protections to Offset Great Uncertainty

- Working for tips creates great uncertainty for low-wage workers. Not only are tips notoriously erratic by their very nature, they are also susceptible to misappropriation. For this reason, tipped workers need a strong minimum wage paid directly by their employers to cushion them against wide swings in their paychecks.⁹
- Tips vary depending on broader economic trends, from season to season, and from shift to shift. Tipped workers are hit especially hard by economic downturns

because of fewer customers and smaller tips, and the current economic climate underscores why it is so important to have a decent tipped minimum wage.

- Even in stronger economies, tips can vary significantly from shift to shift and from season to season. Although technically employers must make up the difference if a worker does not receive enough tips to bring him or her up to the full minimum wage, the reality is that this requirement is very difficult to enforce. Tracking tips is complex because tips fluctuate widely, are often paid in cash, and are frequently “pooled” or shared among staff.¹⁰ Under such complex conditions, law-abiding employers can have trouble keeping track. And as numerous recent lawsuits have shown, less ethical employers can take advantage of this system to skim off the top a portion of a worker’s tips.¹¹
- Furthermore, the widespread problems with tipped minimum wage compliance and enforcement are well documented. A NELP study of 4,387 low-wage workers in New York, Chicago and Los Angeles, found that 30 percent of the tipped workers surveyed were not paid the tipped worker minimum wage. In addition, 12 percent experienced tip stealing by their employer or supervisor.¹²
- This reality underscores the importance of a strong tipped minimum wage to guarantee tipped workers a dependable base income that is not subject to fluctuation or vulnerable to cheating.

The Tipped Workforce Is Growing in This Economy, Making A Strong Tipped Minimum Wage More Important Than Ever to Families and the State's Economy

- The tipped workforce has grown steadily over the past 10 years, even over the 2007-2009 recessionary period.¹³
- According to the Economic Policy Institute, from 2007-2009, while the economy lost more than 5 million jobs, the number of tipped workers grew by 140,000 and the number of waiters grew by 68,000.¹⁴
- Since 2000, the number of tipped workers has increased 15.5% and the number of waiters increased 7.5% -- increases which far exceeded the 1.8% growth in the overall workforce.¹⁵
- The Bureau of Labor Statistics projects that the occupations sector of “Food Preparation and Serving” will add over a million jobs – one of the largest projected occupational increases across occupations – from 2008 to 2018.¹⁶
- Additionally, as NELP analysis shows, while the majority of jobs lost during and after the recession were in mid-wage occupations like manufacturing and construction, job growth since the recession has been disproportionately

concentrated in low-wage occupations, like food prep, with significant segments of tipped workers.¹⁷

- Thus, more workers in Connecticut, and nationally, are spending their careers in low-wage industries, including those with large concentrations of tipped workers.
- This means that a strong tipped minimum wage – and a strong minimum wage in general – will play a bigger role in the state’s economy, since it is one of the major factors shaping pay scales in these low-wage jobs.

Thank you so much for the opportunity to testify today. I’d be happy to answer any questions that you may have.

For more information, please contact NELP Senior Staff Attorney Tsedeye Gebreselassie at tsedeye@nelp.org. For more information about NELP, visit www.nelp.org or www.raisetheminimumwage.org

¹ May 2013 Occupational Employment Statistics, Bureau of Labor Statistics, *available at* http://www.bls.gov/oes/current/oes_ct.htm#35-0000

² Sylvia A. Allegretto and Kai Filion, “Waiting for Change: The \$2.13 Federal Subminimum Wage”, Economic Policy Institute & Institute for Research on Labor and Employment at University of California at Berkeley (February 23, 2011), *available at* <http://www.epi.org/page/-/BriefingPaper297.pdf>

³ *Id.*

⁴ *Id.*

⁵ States that have set the base wage for tipped workers equal to 100 percent of the minimum wage: Alaska, California, Minnesota, Montana, Nevada, Oregon, Washington. Source: Department of Labor, *available at:* <http://www.dol.gov/whd/state/tipped.htm>

⁶ Sylvia A. Allegretto and Kai Filion, “Waiting for Change: The \$2.13 Federal Subminimum Wage”, Economic Policy Institute & Institute for Research on Labor and Employment at University of California at Berkeley (February 23, 2011), *available at* <http://www.epi.org/page/-/BriefingPaper297.pdf>

⁷ Sylvia Allegretto, “Waiting for Change: Is It Time to Increase the \$2.13 Subminimum Wage?” Institute for Research on Labor and Employment, University of California-Berkeley, 2013, *available at:* <http://irle.berkeley.edu/workingpapers/155-13.pdf>

⁸ *Id.*

⁹ Rajesh D. Nayak and Paul K. Sonn, “Restoring the Minimum Wage for America’s Tipped Workers,” National Employment Law Project (August 2009), *available at* http://nelp.3cdn.net/bff44d5fafbd9d2175_vem6ivjib.pdf

¹⁰ *Id.*

¹¹ Benjamin Weiser, “Mario Batali Agrees to \$5.25 Million Settlement Over Employee Tips, *available at* <http://dinersjournal.blogs.nytimes.com/2012/03/07/mario-batali-agrees-to-5-25-million-settlement-over-employee-tips/> (tipped workers alleged that Batali’s restaurants had a policy of

deducting an amount equivalent to 4 to 5 percent of total wine sales at the end of each night from the tip pool and keeping the money.)

¹² Annette Bernhardt, et. al, "Broken Laws, Unprotected Workers: Violations of employment and Labor Laws in America's Cities," National Employment Law Project (2009), *available at* <http://www.nelp.org/page/-/brokenlaws/BrokenLawsReport2009.pdf?nocdn=1>

¹³ Sylvia A. Allegretto and Kai Filion, "Waiting for Change: The \$2.13 Federal Subminimum Wage", Economic Policy Institute & Institute for Research on Labor and Employment at University of California at Berkeley (February 23, 2011), *available at* <http://www.epi.org/page/-/BriefingPaper297.pdf>

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ National Employment Law Project, "The Low-Wage Recovery and Growing Inequality," August 2012, *available at* http://www.nelp.org/page/-/Job_Creation/LowWageRecovery2012.pdf?nocdn=1